

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
The Rural Digital Opportunity Fund Auction	)	AU Docket No. 20-34
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	
Connect America Fund	)	WC Docket No. 10-90

**REQUEST FOR WAIVER**

Pursuant to Section 1.3 of the Federal Communications Commission’s (FCC or Commission) rules,<sup>1</sup> Connect Everyone LLC, a wholly-owned subsidiary of Starry, Inc. (collectively, Starry), respectfully requests that the FCC waive any penalties and forfeiture requirements associated with Starry’s decision not to pursue Rural Digital Opportunity Fund (RDOF) Phase I support in certain census blocks where it was a winning bidder in Auction 904.<sup>2</sup> As the Commission recommended, Starry reviewed its winning bids, and this further analysis indicates that the census blocks listed in Appendix A are likely already served or have no serviceable locations.<sup>3</sup> Starry thus believes that the public interest would be advanced by allowing the Commission to redirect the support associated with these census blocks in a subsequent auction to areas where those funds are needed most.<sup>4</sup> Starry now seeks waiver of the penalties related to its decision not to pursue support in these areas. Good cause exists for the requested waiver, as described herein.

On July 26, 2021, Starry, along with 196 other Auction 904 winning bidders, received a letter from the FCC regarding certain census blocks covered by winning bids associated with

---

<sup>1</sup> 47 C.F.R. § 1.3.

<sup>2</sup> Report and Order, *Rural Digital Opportunity Fund*, WC Docket No. 19-126 ¶ 114 (rel. Feb. 7, 2020) (RDOF Report & Order).

<sup>3</sup> Letter from Michael Janson, Director, Rural Broadband Auctions Task Force, FCC, to Brian Regan, SVP, Strategy & Chief of Staff, Starry, Inc., (July 26, 2021) (FCC Letter). A list of the census blocks for which Starry is seeking a waiver is appended as Exhibit A. On August 16, 2021, in compliance with the instructions provided by the FCC, Starry also provided to Commission staff a copy of Starry’s response to the FCC Letter.

<sup>4</sup> Commission staff has advised that defaults are permitted on a census block basis, with support reductions pro rata based on location counts. Starry supports such an approach.

Starry's Auction 904 long-form application.<sup>5</sup> In the letter, the FCC indicated that some areas included in the RDOF auction may already be served by one or more providers that offer 25/3 Mbps broadband service or may otherwise "raise concerns about wasteful spending," such as census blocks that would target support to serve parking lots or sidewalks.<sup>6</sup> As such, the Commission requested that the recipients of these letters assess whether a default on the census blocks might be appropriate to better target RDOF support to other areas.<sup>7</sup>

The FCC's RDOF program is a critical step to connecting unserved communities across the country. Specifically, the FCC established the RDOF program to connect all Americans, no matter where they live and work, in order to bring "digital opportunity" to consumers living on the wrong side of the digital divide.<sup>8</sup> To do so, the Commission adopted parameters for an auction that prioritized support for robust, next-generation networks with the capacity to provide digital equity to consumers living in unserved areas.<sup>9</sup> Starry participated in Auction 904 because Starry has the technical capability, cost structure, and motivation to bring gigabit, low-latency services to the locations where it won RDOF Phase I support. Starry's mission is to connect millions of consumers to better broadband by offering high-speed, low-cost service with exceptional customer care, and Starry is committed to promoting digital opportunity across its network footprint, including the areas won in Auction 904. For these reasons, Starry appreciates the FCC's efforts to evaluate how finite federal funds are allocated for the deployment and expansion of next-generation networks that target consumers who continue to wait for affordable, reliable service.

Starry supports the FCC's intent to conduct an efficient review of Auction 904 winning bids to ensure that RDOF support is appropriately allocated. Starry conducted further analysis on the census blocks identified by the Commission to determine whether any of these areas may already have service that meets the FCC's 25/3 Mbps standard for inclusion in Auction 904, and/or appear to have no serviceable locations (e.g., are comprised solely of empty spaces like

---

<sup>5</sup> See FCC Letter.

<sup>6</sup> *Id.* at 1.

<sup>7</sup> *Id.*

<sup>8</sup> See RDOF Report and Order ¶ 1.

<sup>9</sup> *Id.*

parking lots), consistent with the FCC’s requirements. Based on this analysis, Starry will not pursue support for the census blocks listed in Appendix A.

Starry’s relinquishment of these census blocks furthers the FCC’s goals for the RDOF program and meets the standard for a waiver of any forfeiture penalties. The Commission may waive its rules “if good cause therefor is shown.”<sup>10</sup> Good cause exists “where particular facts would make strict compliance inconsistent with the public interest.”<sup>11</sup> In reaching this determination, the Commission may “take into account considerations of hardship, equity, or more effective implementation of overall policy.”<sup>12</sup> Waiver of the Commission’s rules is appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest.<sup>13</sup> In the RDOF context, the Commission has stated that in evaluating whether to impose penalties, including forfeitures, as a result of the relinquishment of RDOF winning bids, the Commission will consider the “nature . . . [ ] extent and gravity” of the circumstances.<sup>14</sup> The Commission also may take into account considerations of equity or a more effective implementation of overall policy on an individual basis.<sup>15</sup>

A waiver of the Commission’s rules in this instance is justified because Starry’s decision not to pursue RDOF support in these census blocks fulfills a request by the Commission to further review certain census blocks and will preserve the use of finite Universal Service funds to target census blocks that are wholly unserved by the service standards set for Auction 904 eligible areas. While these areas were included in Auction 904, Starry’s more thorough analysis suggests that providing a subsidy to deploy a network to serve them is counter to the Commission’s intent because it would most likely not result in new locations receiving service. Preserving Universal Service funds also will further the FCC’s ability to support more ubiquitous, reliable connectivity for consumers, consistent with the policy goals for the RDOF

---

<sup>10</sup> 47 C.F.R. § 1.3.

<sup>11</sup> *Ne. Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *see also* FCC Letter at 1, fn 6.

<sup>12</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *see also* FCC Letter at 1, fn 6.

<sup>13</sup> *Ne. Cellular*, 897 F.2d at 1166.

<sup>14</sup> RDOF Report & Order ¶ 115.

<sup>15</sup> FCC Letter at 1, fn 6.

program.<sup>16</sup> For these reasons, Starry respectfully requests that the FCC expeditiously grant its request for waiver.

Starry shares the Commission's goal to ensure that limited RDOF support is efficiently targeted to areas most in need of robust connectivity. For the foregoing reasons, Starry respectfully requests that the FCC expeditiously grant its request and waive any penalties associated with Starry's decision not to pursue support in the identified census blocks.

Respectfully submitted,

Starry, Inc.:

*Virginia Lam Abrams*  
*Senior Vice President, Government Affairs*  
*& Strategic Advancement*

*Brian Regan*  
*Senior Vice President, Strategy &*  
*Chief of Staff*

*Courtney Neville*  
*Regulatory and Policy Counsel*

**Starry, Inc.**  
**38 Chauncy Street, Second Floor**  
**Boston, Massachusetts 02111**

August 16, 2021

---

<sup>16</sup> RDOF Report & Order ¶¶ 1-2.

## **EXHIBIT A**

State	Census Block ID
AL	10890106222086
AL	10150011003050
AL	10890031002063
AL	10890110211079
AL	10970033021047
AL	10890026002004
AZ	40138124001024
AZ	40190006001008
AZ	40030015011015
CO	80690028011048
CO	80690028013059
CO	80690016011022
CO	80690016011052
CO	81230010053006
CO	80690001002047
IL	170519508002059
IL	170519508002061
IL	170190014001000
IL	170190014001009
IL	170190014001036
IL	170190014001002
IL	170190014001003
IL	170190014001004
IL	170190014001005
NV	320130107013096

State	Census Block ID
IL	170190014001013
IL	170190014001023
IL	170190014001011
IL	170190008002049
IL	171739593004028
IL	170190059002006
IL	170190111002003
IL	170190008001023
IL	170190008001026
IL	170190008001027
IL	170190008001030
IL	171739593001071
IL	170190111001000
IL	170190053002021
IL	170190053002024
IL	170190013021029
IL	171150014002007
IL	170190010005003
IL	170190059003012
MS	281499503003024
NV	320339702002060
NV	320030078002027
NV	320030078002028
NV	320130105005039
PA	420430207002034

NV	320030053601044	PA	420430207001025
NV	320030053601046	PA	421330222003013
NV	320030036303001	PA	420430201003033
NV	320030058112001	PA	420410113043029
NV	320030029621089	PA	421330220002025
NV	320030034151012	PA	420430214001016
NV	320030054371044	PA	420410111013035
NV	320030029823000	VA	510853209004008
NV	320030001012014	VA	517600610002067
NV	320030032154006	VA	517600610002125
NV	320030029851028	VA	517600109004005
NV	320030037002004	VA	517600402002052
NV	320030033201016	VA	517600402002142
OH	390950068003005	VA	517600402002071
OH	390950068003010	VA	518303703001038
OH	390998125003019	VA	510872001291042
OH	390950070011016	VA	517600111002028
PA	421330014001002	VA	518303703003023
PA	420430209004059	VA	518303703003028
PA	420430201002039	VA	517600305001098
PA	420410113052003	VA	517600205002012
PA	420430201003018	VA	517100012002001
PA	420410106004074	VA	510872008011014
PA	421330214101020	VA	510411009312010
PA	421330214101022	VA	517100025001005
VA	518100462191009	VA	517100043001027
VA	510872008021059	VA	517402131041011
VA	517100066032031	VA	510872011022007

VA	517100026001023	VA	517100038002000
VA	518000751012005	VA	510411001062014
VA	518100410034017	VA	517600414002000
VA	518100452001003	VA	518100442004000
VA	518100452001021	VA	518100454174021
VA	517600111002031	VA	510411009213015
VA	518100462141002	VA	517100037002011
VA	518100442001031		